

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PONCIANO AUSTRIA,

Plaintiff,

v.

C/O TOREY *et al.*,

Defendants.

Case No. C07-5279RBL

ORDER ADOPTING
REPORT AND
RECOMMENDATION

The Court, having reviewed Plaintiffs' complaint, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) Plaintiff's request for an interpreter [Dkt. #27] is **DENIED**. See Order, Dkt. #21.
- (2) The Court adopts the Report and Recommendation;
- (3) This action is **DISMISSED WITH PREJUDICE** as to claims against the State itself and claims against Rob McKenna.
- (4) The action is **DISMISSED WITHOUT PREJUDICE** as to claims relating to use of force against the plaintiff, and state tort claims.
- (5) The motion to dismiss plaintiff's due process claims relating to a disciplinary hearing is **DENIED**.
- (6) The Clerk is directed to send copies of this Order to plaintiff, counsel for defendants, and to the Hon. J. Kelley Arnold.

DATED this 29th day of October, 2007.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE